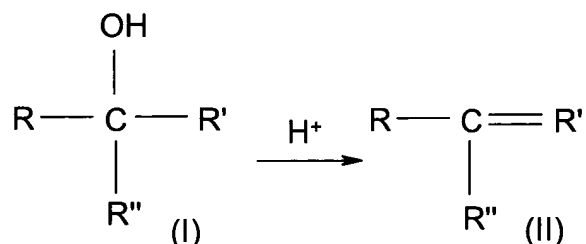


## REMARKS

Favorable reconsideration and allowance of the present application is respectfully requested.

Currently, claims 27-59, including independent claims 27 and 49, are pending in the present application. Independent claim 27, for instance, is directed to a kit for detecting *Helicobacter pylori*. The kit comprises a source of urea (e.g., drink, tablet, etc.) that is hydrolyzable in the presence of a urease enzyme to generate ammonia. The kit also comprises a breath testing device comprising a visual indicating agent that is color sensitive to the ammonia. The visual indicating agent has the following general formula (I) or (II):



R is (CH<sub>3</sub>)<sub>2</sub>NC<sub>6</sub>H<sub>5</sub>, (NH<sub>2</sub>)C<sub>6</sub>H<sub>5</sub>, or C<sub>6</sub>H<sub>5</sub>;

R' is (CH<sub>3</sub>)<sub>2</sub>NC<sub>6</sub>H<sub>5</sub>, (NH<sub>2</sub>)C<sub>6</sub>H<sub>5</sub>, C<sub>10</sub>H<sub>6</sub>(OH), or (NaCO<sub>2</sub>)C<sub>10</sub>H<sub>5</sub>(OH); and

R'' is H, (CH<sub>3</sub>)<sub>2</sub>NC<sub>6</sub>H<sub>5</sub>, (NH<sub>2</sub>)C<sub>6</sub>H<sub>5</sub>, C<sub>10</sub>H<sub>6</sub>O, or (NaCO<sub>2</sub>)C<sub>10</sub>H<sub>5</sub>O.

In the Office Action, certain of the previous claims were rejected under 35 U.S.C. § 101 in view of the claims of U.S. Application Serial Nos. 10/687,270; 10/687,269; and 10/961,676. Without commenting on the propriety of these rejections, Applicants simply note that the present claims fully satisfy all of the requirements of § 101. For instance, each of the present claims requires a source of urea that is configured to be hydrolyzed in the presence of a urease enzyme to produce ammonia.

In the Office Action, previous independent claim 24 (directed to a "kit") was rejected under 35 U.S.C. §103(a) as being obvious over WO 97/30351 to Baldwin et al. in view of U.S. Patent No. 5,420,016 to Boguslaski et al. Baldwin et al. is directed to an apparatus for detecting ammonia in a user's breath. The apparatus includes a tube with a mouthpiece and a means for collecting the ammonia. The collected ammonia is then contacted with an indicator system. Various indicator systems are disclosed including electronic detectors, reaction with metal ions to form complexes, acid/base indicators including 4-nitrophenol, bromothymol blue and bromocresol purple, and multistage reactions such as a pyridine-pyrazolone or indophenol reactions. Nevertheless, as acknowledged by the Examiner, Baldwin et al. fails to disclose one or more aspects of the claimed kit. For instance, Baldwin et al. fails to disclose a visual indicating agent having the formula set forth in independent claims 27 and 49.

Nevertheless, Boguslaski et al. was combined with Baldwin, et al. in the Office Action in an attempt to render obvious previous independent claim 24. Boguslaski et al. is directed to a method for determining the presence of *H. pylori* in a biological specimen. Similar to Baldwin, et al., however, Boguslaski et al. also fails to disclose certain limitations of independent claims 27 and 49, such as a visual indicating agent having the claimed formula. Thus, for at least the reasons noted above, Applicants respectfully submit that independent claims 27 and 49 patentably define over Baldwin et al. and Boguslaski et al.

Applicants respectfully submit that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested.

Examiner Portner is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this response.

Respectfully requested,

DORITY & MANNING, P.A.

  
\_\_\_\_\_  
Jason W. Johnston  
Registration No. 45,675

DORITY & MANNING, P.A.  
P. O. Box 1449  
Greenville, SC 29602-1449  
Phone: (864) 271-1592  
Facsimile: (864) 233-7342

Date: 8/29/06